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## VIA ELECTRONIC CASE FILING AND FIRST CLASS MAIL

May 29, 2009

Hon. Arthur D. Spatt  
United States District Court  
100 Federal Plaza  
P.O. Box 9014  
Central Islip, New York 11722

Re: C. Robert Allen v. Christopher Devine, et al.  
Civil No.: 09-0668  
Our File No.: 5122/196500

Dear Judge Spatt:

This firm represents defendants, Christopher Devine, Lakeshore Media, LLC, Millcreek Broadcasting LLC, College Creek Media LLC, Marathon Media Group, LLC, 3 Point Media – Salt Lake City, LLC, 3 Point Media Delta, LLC, 3 Point Media – Utah, LLC, 3 Point Media – Franklin, LLC, 3 Point Media – Prescott Valley, LLC, 3 Point Media – Coalville, LLC, 3 Point Media – Arizona, LLC, 3 Point Media – Florida, LLC, 3 Point Media – Kansas, LLC, 3 Point Media – Ogden, LLC, 3 Point Media – San Francisco, LLC, Midvalley Radio Partners, LLC, Superior Broadcasting Of Nevada, LLC, Superior Broadcasting Of Denver, LLC, Wackenburg Associates, LLC, Portland Broadcasting LLC, Desert Sky Media LLC, Sky Media LLC, in the above-referenced action.

I am in receipt of a letter to Your Honor dated May 22, 2009 by Plaintiff seeking leave from Your Honor to file and serve a sur-reply, predicated on the fact that my clients' Reply Brief is slightly over the page limit indicated in Your Honor's Individual Motion Practices.

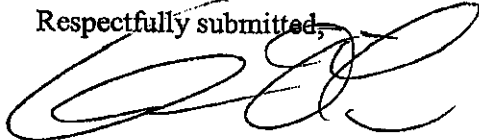
It was my clients' intention to have a brief point in the Reply Brief seeking leave, nunc pro tunc, to slightly exceed the page limit, which was itself necessitated by the nature of the allegations raised in the opposition to my clients' Motion to Dismiss. The failure to include that point in the Reply Brief was mine for which I apologize. I respectfully request that Your Honor consider this letter application for leave to exceed the page limit and would appreciate it if Your Honor's chambers would let me know if a more formal application is necessary. As Your Honor will see in the opposition and reply, however, there is absolutely no justification for Plaintiff to re-open the briefing of this Motion with an unnecessary sur-reply, given his failure to brief the issues in the first instance, and we respectfully request that Your Honor deny the letter application of Plaintiff's counsel.

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United States District Court  
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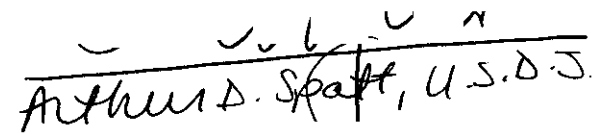
Respectfully submitted,



KEVIN J. O'CONNOR

cc: All counsel of record by ECF

Document number 40 on the docket, Reply  
Memorandum of Law in Support of Motion to Dismiss  
the complaint, will not be considered as it  
fails to comply with the Court's individual  
motion practices. The moving defendants  
may file a complying brief on or before  
June 8, 2009. The plaintiff's request to  
file a sur-reply is denied.  
So ordered.

  
Arthur D. Spatt, U.S.D.J.

6/1/09

MOVANT'S COUNSEL IS DIRECTED TO SERVE A  
COPY OF THIS ORDER ON ALL PARTIES UPON  
RECEIPT.